THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN

AND

THE HON'BLE SRI JUSTICE C.V.BHASKAR REDDY

WRIT APPEAL No.722 of 2022

JUDGMENT: *(Per the Hon'ble the Chief Justice Ujjal Bhuyan)*

Heard Mr. Syed Yasaar Mamoon, learned counsel for the appellant; Mr. N.Krishna Sumanth, learned counsel for respondent Nos.1 to 4 (writ petitioners); Mr. Pasham Krishna Reddy, learned Government Pleader for Municipal Administration and Urban Development representing respondent No.5; Mr. S.Ravinder, learned Government Pleader for Home Department representing respondent Nos.6 & 10; and Mr. Karika Ravinder Reddy, learned Standing counsel for Greater Hyderabad Municipal Corporation (GHMC) representing respondent Nos.7 to 9.

2. This writ appeal is directed against the order dated 03.08.2022 passed by the learned Single Judge in W.P.No.31525 of 2022 filed by the respondent Nos.1 to 4 as the writ petitioners.

3. Respondent Nos.1 to 4 filed the related writ petition against inaction of respondent Nos.3 to 6 (respondent Nos.7 to 9 herein) in not taking any action on their representation dated 26.07.2022, further seeking a direction to the GHMC to demolish the two mulgies of the appellant being Nos.5-9-315 and 5-9-316 situated opposite to State Bank of India, Gunfoundry, Hyderabad allegedly being in a very dilapidated condition.

4. Learned Single Judge by the final order dated 03.08.2022 directed Deputy Commissioner, GHMC, Circle 14, Goshamahal, Abids, Hyderabad to look into the representation of respondent Nos.1 to 4 and thereafter to take appropriate action in accordance to Sections 456 and 459 of Greater Hyderabad Municipal Corporation Act, 1955 (briefly 'the Act' hereinafter) as expeditiously as possible.

5. Though the order of learned Single Judge dated 03.08.2022 appears to be innocuous at the first sight, nonetheless we feel that learned Single Judge ought not to have entertained the writ petition. We say this because as per the own averments of the writ petitioners, the

representation is dated 26.07.2022. Allegation made in the writ petition is against the inaction of GHMC and its Officials in dealing with the said representation. We find from the material papers that the related writ petition came to be filed on 28.07.2022. In other words, the writ petition was filed within 2 days of filing the representation.

6. Firstly, it is trite that a writ of mandamus must be preceded by demand and refusal. The representation being dated 26.07.2022, filing of the writ petition two days thereafter on 28.07.2022 complaining of inaction was certainly premature. Minimum reasonable time has to be given to the authority to consider such a representation. On that ground itself, the writ petition should not have been entertained.

7. Secondly, learned Single Judge directed GHMC and its authorities to take appropriate action under Sections 453 & 459 of the Act without issuing notice and without hearing the appellant (respondent No.7 in the writ petition) though he was the affected party.

8. For the aforesaid reasons, we set aside the order of the learned Single Judge dated 03.08.2022 passed in W.P.No.31525 of 2022 and dismiss the writ petition. Writ appeal is accordingly allowed.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

UJJAL BHUYAN, CJ

C.V.BHASKAR REDDY, J

07.11.2022
MRM